

**TOWN OF SALEM  
INLAND WETLANDS & CONSERVATION COMMISSION  
REGULAR MEETING MINUTES  
MONDAY, JANUARY 3, 2022 – 7:00 P.M.  
SALEM TOWN HALL – CONFERENCE ROOM 1**

**1. Call to Order**

Chairperson Bradley called the meeting to order at 7:05 p.m.

**2. Roll Call/Seating of Alternates**

Present were Chairperson Kimberley Bradley, Vice-Chairperson Diba Khan-Bureau, Secretary Roger Phillips, Commissioners Jennifer Messervy, Edward Natoli, Jr. (*via speakerphone*), Dean Wojcik, and Alternate Commissioners Jim Miller and Michael Smith. Absent were Commissioner Jim Mulholland and Alternate Commissioner Larry Moore. Also present was Wetlands Enforcement Officer (WEO) Matthew Allen.

The Commissioners introduced themselves and provided a brief background of their education and/or experience.

*Alternate Commissioner Smith was seated for Full Member Commissioner Mulholland.*

**3. Approval of Agenda**

**M/S/C: Khan-Bureau/Messervy, to approve the Inland Wetlands & Conservation Commission Agenda for January 3, 2022, with the following additions:**

**Item 8, Old Business, (b) Hartford Road Bridge**

**(c) Plan of Conservation and Development**

**(POCD)**

**Discussion: None. Voice vote, 7-0, all in favor.**

**4. Approval of Minutes:**

**a. December 6, 2021 Regular Meeting Minutes**

**M/S/C: Khan-Bureau/Messervy, to approve the Inland Wetlands & Conservation Commission Regular Meeting Minutes of December 6, 2021. Discussion: None. Voice vote, 6-0-1. Voting in Favor:**

**Commissioners Khan-Bureau, Messervy, Miller, Natoli, Smith, and**

**Wojcik. Voting in Opposition: None. Voting in Abstention:**

**Commissioner Phillips.**

Chairperson Bradley recommended that the new Commissioners watch the video recording of their December meeting which featured Darcy Winther, Connecticut Department of Energy and Environmental Protection (CT DEEP), Land & Water Resources Division, Bureau of Water Protection and Land Reuse, and Land Use Attorney Michael Zizka. She also recommended the Commissioners take the new

Inland Wetlands online training course which is expected to become available soon. By law, at least one of the members of the Commission must take the free training course.

**5. Public Comment**

Newly-elected First Selectman Ed Chmielewski wished everyone a Happy New Year and looks forward to working with them. He updated the Commissioners regarding the delivery of the At-Home Rapid COVID-19 Test Kits and N95 Masks from the State to municipalities and schools. While they failed to deliver the items on the scheduled day, they were surprised by a call that the town would be receiving over 200 At-Home Rapid Test Kits and Masks on New Year's Eve. These kits were distributed to Salem School, Emergency Responders, Firefighters and Ambulance Crew Members, critical Town staff, and local businesses and eateries with high public traffic. The town expects to receive additional test kits and masks over the coming days for public distribution. He commended the Emergency Services & Management staff, Volunteer Fire Companies, and Town Hall staff for preparing and organizing a detailed distribution plan to distribute the test kits and masks to the public. Updates will be posted on the town website.

**6. New Business**

**a. 2022 Budget**

The Commissioners reviewed and discussed the proposed FY2022/23 Budget. Chairperson Bradley stated that the following changes were made:

Line Item	FY2021/22	FY2022/23 PROPOSED	PROPOSED INCREASE
5-610-261, Legal Services	\$1,300	\$1,500	\$200
5-610-941, Mileage	\$100	\$150	\$50

Commissioner Natoli also suggested, and the members agreed, to also request the following change:

Line Item 5-610-941, Engineering/*Environmental Services*

**M/S/C: Khan-Bureau/Messervy, to approve the proposed FY2022/23 Budget, as presented, with the following additional change:**

Line Item 5-610-941, Engineering/*Environmental Services*

**Discussion: None. Voice vote, 7-0, all in favor.**

**b. Violation @ 89 Norwich Road**

WEO Allen provided a brief background of the violation, which occurred on an existing farm road across the top of an old earthen dam located along Frazier Brook at Salem Community Park Pavilion. Recently, the town's Public Works crew deposited crushed stone on top of the existing farm road, which was, to his understanding,

previously comprised of dirt. The Commission's task is to determine whether the deposition of material was a regulated activity and/or requires abatement and whether maintaining or removing the crushed stone would negatively impact the waterway.

Chairperson Bradley added that Frazier Brook is a tributary to the Eightmile River, which is designated as part of the National Wild & Scenic River System. The complaint was initiated by the Recreation Commission, which has provided documentation. CT DEEP was informed of the violation and has expressed concerns regarding the safety of the earthen dam due to the added weight. Regardless, the Commission's task is to consider the impact of the action on their wetlands resources.

First Selectman Chmielewski stated his belief in working together and providing full disclosure. He proceeded to provide a brief background of his knowledge of the dam, which he estimated to be approximately one- to two-hundred years of age and is known as the Dolbeare Dam. He recalled that debris was cleared from the area approximately 12 years ago as part of an Eagle Scout project. He was informed of the violation by the WEO, who also informed both the Planning & Zoning and Inland Wetlands & Conservation Commissions. Through his investigations, he learned that, in the interest of safety, approximately \$130.00 of gravel was placed by the Public Works staff. During this period, both the Public Works Director, who recently lost his wife, and the Foreman, who was also out on medical leave, were not working. He has since spoken with the Public Works staff informing them of the importance of contacting him prior to any work being conducted in any wetlands areas. He stated his wish to move past any previous issues and expressed his willingness to work with the Commission and remediate any damage that was caused.

Vice-Chairperson Khan-Bureau questioned who requested the Public Works crew to place the gravel and questioned their ability to purchase and deposit material without approval. She felt that the activity is a regulated activity that requires a permit and did not feel that \$130.00 of stone was sufficient to cover the area in question. In response, First Selectman Chmielewski stated that the material was deposited in the interest of safety; there was no malicious intent. He reiterated his wish to move forward, ensure that such activity does not happen again by instilling practices and procedures, and conducting any remediation work that the Commission deems necessary. Chairperson Bradley and Vice-Chairperson Khan-Bureau recommended, and the First Selectman agreed, that the Public Crew receive training regarding the procedures that must be taken to protect the town's wetlands. Chairperson Bradley also suggested the possibility of considering additional staff hours to ensure their availability to respond to any questions or concerns.

An extensive discussion was held regarding the activity. Commissioner Phillips felt that the placement of stone atop an existing 100 to 200-year-old manmade structure

would not be considered a violation. Rather, it is a maintenance issue in which stone that had been washed away was replaced and, as such, is an activity that can be handled by the WEO. While agreeing that the process should have been followed, Commissioner Wojcik agreed with Commissioner Phillips, adding that the State practices the same methodology. He stated that the placement of gravel allows for water to filter through naturally, allows for wildlife to thrive, and creates the least impact while, at the same time, stabilizing the structure.

Chairperson Bradley stated that one of her major concerns includes opening up the area for unwarranted use of the property as a result of the action, i.e., the potential of individuals driving on the property and through Frazier Brook. She felt that unless the Recreation Commission presents an application to lay down gravel in the interest of safety, the area should either be restored to its previous state and/or an impact study be conducted. As such, she recommended the Commission issue a Notice of Violation. She also felt that such work is no longer conducted and bridges are installed in its stead. Vice Chairperson Khan-Bureau reiterated that the activity is a regulated activity that should have come before the Commission for approval – a point which both the First Selectman and Commissioner Wojcik felt was already established. Commissioner Natoli agreed, adding that town has come before the Commission to state that an error was unknowingly and inadvertently made and it is now up to the Commission to determine whether any mitigation is necessary. He was confident that the town will not make the same error in the near future. Commissioner Miller recommended they work with the town to resolve and mitigate the activity rather than concentrating on the issuance of a violation.

A brief discussion ensued regarding the Commission's roles in implementing the laws of the State with the help of the WEO who is tasked with enforcing the Commission's decisions and the WEO's role.

ZWEO Allen felt, and Commissioner Wojcik agreed, that their discussions should center around the impact of the activity on the wetlands in question.

Recreation Commission Chairman Alan Maziarz stated that the process was not followed, no silt fence was placed to protect the waterway, and dump trucks were parked beside the brook while the work was being conducted. Commissioner Wojcik agreed that a process needs to be followed, but the conversation should revolve around the impact of the action.

*First Selectman Chmielewski exited the meeting at 7:56 p.m.*

Chairperson Bradley recommended that an impact study be conducted by a certified wetlands scientist to review, determine, and recommend any necessary remediation.

**M/S/C: Khan-Bureau/Natoli, to direct the Wetlands Enforcement Officer to issue a Notice of Violation, Order of Restoration, or the like for the deposition of gravel at 89 Norwich Road. Discussion: Chairperson Bradley noted that both the Town and the Agency is willing to work together to resolve the issue. Voice vote, 4-3. Voting in Favor: Commissioners Khan-Bureau, Messervy, Natoli, and Bradley. Voting in Opposition: Commissioners Phillips, Smith, and Wojcik.**

**7. Public Hearing(s) – none**

**8. Old Business**

**a. 2022 Meeting Schedule**

**M/S/C: Phillips/Khan-Bureau, to approve the Inland Wetlands and Conservation Commission 2022 Regular Meeting Dates. Discussion: All meetings will be held on the first Monday of the month, with the exception of the months of July and September, when the meeting will be held on the first Tuesday of the month, due to the respective Fourth of July and Labor Day holidays. Also included is the January 2023 meeting. Voice vote, 7-0, all in favor.**

**b. 270 Hartford Road Bridge**

Recreation Commission Chairman Maziarz provided a brief background of the bridge that was installed on Harris Brook along the town's Multi-Purpose Path. He stated that the bridge was installed on the Brook by an unknown individual and without the knowledge of either the Recreation or Inland Wetlands & Conservation Commissions. Following a major storm, an invoice, signed by the former First Selectman, was received by the Recreation Commission for the repair of the bridge. In the interest of safety, the Recreation Commission is seeking their guidance and leadership.

Commissioner Natoli added that, following the installation of the bridge, a major storm occurred causing the bridge to fall into the channel and change the course of the Brook. The bridge was, subsequently, removed and reinstalled with new footings that would, most likely, not have been approved by the Commission. As such, there are multiple violations concerning the bridge.

Chairperson Bradley stated that the Commission's previous discussions regarding the bridge may be found in the Commission's October and November Meeting Minutes and expressed her appreciation to Recreation Commission Chairman Maziarz for coming before the Commission. She reiterated the need for, especially the town, to set a precedence in following the correct procedures in the interest of protecting their

natural resources. Having worked on trails throughout the State, she added her appreciation of the structure and the public's wish to connect the trail to the Round Hill Road property. Nevertheless, the bridge has impeded the water flow and might also pose an ongoing issue for the town. The Commission's task is to not only protect their wetlands resources, but also protect the town and its residents. She expressed her willingness to work with the Recreation Commission to resolve the issue.

Commissioner Khan-Bureau stated that the installation/repair of the bridge are regulated activities that should have been presented to the Commission.

Former Multi-Purpose Path Committee Chairperson Sue Spang reported that the Army Corps of Engineers and Inland Wetlands & Conservation Commission (IWCC) approved the installation of bridges to be located at numerous crossings. In 2019, the Committee discussed and decided against installing a large vehicular bridge at that particular crossing as both of the permits had since expired. Commissioner Khan-Bureau added that, depending upon the type of structure, the Army Corps of Engineers must approve the project. WEO Allen felt that because the use of the bridge is recreational, it would be considered a non-regulated activity. In addition, no permanent footings, i.e., pourings, concrete, or the excavation of materials to place any material in the ground, have been installed. The original bridge was placed on earth on stone and, after being repaired, is now placed on wood.

Chairperson Bradley stated that she has spoken with the CT DEEP who informed her that, while they are not able to restrict the recreational activities of the public along their resources, the structures and, in particular, crossings, are often considered a regulated activity. She stated that simple crossings may be placed, but the structure in question and its location on a high gradient channel constitutes the bridge as a regulated activity. Additionally, the footings are placed directly on wetlands soils and within the bank area of the stream.

In response to Commissioner Smith, WEO Allen felt that the bridge poses minimal to no impact to the wetlands and the bridge may be maintained as is. Chairperson Bradley and Vice-Chairperson Khan-Bureau disagreed, stating that allowing the bridge to be maintained as it would set precedence, allowing anyone to build and place a bridge as he/she wishes. Chairperson Bradley also felt that the WEO was taking his authority well above and beyond his scope and was acting illegally. WEO Allen stated that the Commission is not beholden to any type of precedence. Commissioner Miller concurred, stating that the term, "precedence", is decided by a court of law. He felt that the Commission has rehashed the issue several times and questioned their goal.

Chairperson Bradley felt that the bridge, because it was placed unbeknownst to anyone and without the proper review and approvals, should be removed. The placement of a bridge should be discussed and approved by the Recreation Commission and presented, reviewed, and approved by the IWCC. Because the bridge is placed directly in the wetland soils, it is impacting the wetlands. Commissioner Natoli felt that, because the bridge was not permitted, it creates a significant liability to the town and felt that the town might like to remove the bridge for simply that reason. He also felt that the bridge is, in a sense, an expression of disrespect, derision, or contempt to the Commission by the town. He proposed the possibility of either permitting the bridge or reconstituting the previously-established Multi-Purpose Path Committee to work with the necessary departments and determine the type, safety, use, liability, and location of the bridge. He also felt that removing the bridge may be “infinitely more damaging” than maintaining it. Chairperson Bradley agreed, stating the importance of coordinating and collaborating between the town’s agencies. Commissioners Bradley and Natoli added that additional funds, either from the Eightmile River Wild & Scenic Watershed Committee or the State, might be available to fund the project.

Chairperson Bradley proposed sending the item back to the Recreation Commission for review and discussion.

**c. Plan of Conservation and Development (POCD)**

Commissioner Khan-Bureau briefly discussed the town’s POCD, stating that the Planning & Zoning Commission is required to develop and update the town’s POCD every ten years. The IWCC has been tasked with updating Chapters 3, Natural Resources, and 4, Agriculture and Forestry. She reviewed the changes that have been made to the document to date, including updating the data, ways to make the town more resilient, climate change, creating no or low-mow zones, and giving priority to Salem farmers to lease town property for farming. The Commissioners may also review and edit the document via Google Docs. While the document is due in March, the town will be requesting a deadline extension.

**9. Wetlands Enforcement Officer’s Report**

WEO Allen welcomed the newly-appointed Commissioners.

In response to Commissioner Natoli, WEO Allen stated that the Salem Land Trust has not yet contacted him to apply for an As-of-Right Permit for beaver mitigation.

Commissioner Natoli reported that the Land Trust has conducted significant work and, also, wished to inform them of the availability of a beaver mitigation grant being offered by the Connecticut River Conservation District. Chairperson Bradley will contact the Salem Land Trust President.

**10. Correspondence – none**

**11. Plus Deltas/Announcements**

Commissioner Khan-Bureau informed the new Commissioners regarding the need to respect the other Commissioners, especially the Chairperson, by not engaging in any side conversations during the meeting.

Chairperson Bradley agreed. She also stated the importance of providing any applicants and the public with their background for the sake of transparency. She also informed them that all communications must be presented to the WEO for distribution to avoid violating any FOIA (Freedom of Information Act) rules.

Commissioner Phillips stated that he was pleased with the lively discussions.

WEO Allen will provide a hard copy of the Wetlands Regulations, which is also available the town website, to the new Commissioners. He also explained the difference between the Inland Wetlands Commission, which has legal authority and is a regulatory agency that is subject to the courts, and the Conservation Commission, plays an advisory role.

**12. Adjournment**

**M/S/C: Phillips/Wojcik, to adjourn the meeting at 8:52 p.m. Discussion: None. Voice vote, 7-0, all in favor.**

Respectfully Submitted by:

Agnes T. Miyuki, Recording Secretary for the Town of Salem